

## **REMARKS**

Claims 1-3, 5-7, 13-17, 19-21, 26 and 28 have been amended. Claims 1-32 remain pending in the application. Reconsideration is respectfully requested in view of the following remarks.

### **Telephone Interview Summary**

During a telephone interview on December 14, 2006 between the Examiner and Applicants' undersigned attorney, the Examiner agreed to withdraw the current Final Action. The Examiner also asserted that various limitations recite intended uses and are thus accorded little patentable weight. Applicants' undersigned attorney explained that the limitations referred to by the Examiner are functional limitations, not intended use limitations. According to M.P.E.P. § 2173.05(g), "[a] functional limitation must be evaluated and considered, just like any other limitation of the claim" (emphasis added). The courts have held that a functional claim limitation was "perfectly acceptable [to distinguish over the prior art] because it set definite boundaries on the patent protection sought." *In re Barr*, 444 F.2d 588, 170 USPQ 33 (CCPA 1971). The above amendments are presented to provide further clarity.

### **Restriction Requirement**

On March 31, 2006, Applicants filed a petition under 37 CFR 1.144 from the restriction requirement made final in the Office Action dated September 21, 2005. Applicants maintain that the restriction requirement is improper for at least the reasons stated in the petition. **A decision on the petition is hereby respectfully requested.**

## **CONCLUSION**

Applicants submit the application is in condition for allowance, and prompt notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-90200/RCK.

Respectfully submitted,

/Robert C. Kowert/

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